

ENVIRONMENTAL PROTECTION AGENCY

Feb 11

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November 12, 1973

Mr. George Friedel
Director, Division of Water Resources
New Jersey State Department of
Environmental Protection
P. O. Box 1390
Trenton, New Jersey 08625

Re: Evaluation of Permits to be
Issued under Section 402 of
the FWPCA of 1972

Dear Mr. Friedel:

The United States Environmental Protection Agency has received an application for a permit under the National Pollutant Discharge Elimination System (NPDES) from the following dischargers in your state:

<u>Discharger and Location</u>	<u>Permit Application Number</u>
National Gypsum Company Millington, New Jersey	2SD OXW 2 000570
Bernards Water Company Bernardsville, New Jersey	2SD OXW 2 000415
Armour Pharmaceutical Berkeley Heights, New Jersey	2SD OXW 2 000597
Ciba-Geigy Summit, New Jersey	2SD OXW 2 000136
Orange Products, Inc. Chatham, New Jersey	2SD OXW 2 000347
American Oil Company East Rutherford, New Jersey	2SD OXW 2 000037

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<u>Discharger and Location</u>	<u>Permit Application Number</u>
Amerada Hess Corporation Newark, New Jersey	2SD OXW 2 000325
Newark Asphalt Corp. Newark, New Jersey	2SD OXW 2 000247
Public Service Electric & Gas Newark, New Jersey	2SD OXW 2 000155
Intermediate Division, Tenneco Division, Garfield, New Jersey	2SD OXW 2 000022
Inmont Corp. Hawthorne, New Jersey	2SD OXW 2 000577
Marcal Paper Mill East Paterson	2SD OXW 2 000169
Sun Oil Company Newark, New Jersey	2SD OXW 2 000648
Otis Elevator Company Harrison, New Jersey	2SD OXW 2 000682
S. B. Penick Lyndhurst, New Jersey	2SD OXW 2 000882

Enclosed please find a copy of the permit application submitted by each discharger, as well as all information received by the Environmental Protection Agency which updates each application. Note that two permit applications originally scheduled for certification with this group have been withdrawn. Western Electric #NJ 002 0433 will be issued together with Western Electric #2SD OXW 2 000102. Monsanto #2SD OXW 2 000096 has been withdrawn because of zero discharge.

Pursuant to Section 401 of the Federal Water Pollution Control Act Amendments of 1972 (FWPCA), before the Environmental Protection Agency can act upon these applications, your agency must, for each discharger listed above, (1) certify that the discharges will comply with the applicable provisions of sections 301, 302, 306, and 307, or (2) certify that there are no applicable effluent or other limitations under sections 301(b) and 302 and there are no applicable standards under sections 306 and 307, or (3) deny such certification or (4) waive its right to certify or to deny such certification.

I request that your agency examine the enclosed material and provide the certification required by Section 401 of the FWPCA of 1972 for the dischargers listed above.

Section 301(b)(1)(C) of the FWPCA of 1972 requires that there shall be achieved effluent limitations "necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations...or required to implement any applicable water quality standard established pursuant to this Act."

Furthermore, Section 401(d) of the FWPCA of 1972 provides that:

"(a)ny certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section" (emphasis added).

Therefore, your agency is required by law to provide effluent and other limitations necessary to assure that the applicant will comply with all the requirements (including, of course, water quality standards) set forth in the above-quoted sections. Certification should be denied only when there are no conditions which can assure compliance with appropriate requirements. If certification is denied, no NPDES permit will be granted and the applicant will be so informed.

Section 401 of the FWPCA of 1972 provides in part:

"(i)f the State, interstate agency, or Administrator, as the case may be fails or refuses to act on a request for certification, within a reasonable period of time...after receipt of such request, the certification requirements of this subsection shall be waived...."

Please provide the above-requested certifications to me by February 11, 1974. The Environmental Protection Agency considers that as of that date, the State will have had a "reasonable time", as that term is used in Section 401(a)(1) of the FWPCA of 1972, to act on these requests for certification.

In order to insure that the goals for pollution abatement mandated by Congress in the FWPCA of 1972 are met, this Agency must adhere strictly to the statutory rules governing waiver of certification. Therefore, should you fail to provide the requested certifications by February 11, 1974, the certification requirement of Section 401 will be considered to have been waived.

Your certification, when submitted to the Environmental Protection Agency, should be complete in all respects. Certification in draft form, or in the form of a letter indicating effluent or other limitations which your agency would recommend for inclusion in NPDES permits is not acceptable. We appreciate the recommendations you have offered in the past. We will continue to solicit your comments, both general and specific, by providing your agency with copies of all proposed draft NPDES permits. However, it is essential that these comments and recommendations be separated from the statutory certification process.

In addition to the certifications requested above, please provide me, for each of the dischargers listed above, effluent limitations expressed in pounds per day where possible, or, where this is not possible, in other appropriate units which are necessary to assure non-contravention of any pending revisions to your State's federally-approved water quality standards. Whenever the Regional Administrator determines that the attainment of effluent limitations based upon proposed water quality standards is necessary to carry out the provisions of the FWPCA of 1972, these limitations will be included in NPDES permits.

In addition, I would appreciate your inclusion of any waste load allocations for other point sources, whether publicly or privately owned, located in the same river basin segment or geographic area as each of the above-listed dischargers.

Please give this matter your prompt attention. Your cooperation is essential if the Congressionally-mandated goals for pollution abatement are to be met.

Sincerely yours,
MEYER SCOLNICK
Director
Enforcement and Regional
Counsel Division

By:

Sandra P. Kunsberg
Attorney
Enforcement and Regional
Counsel Division

Enclosures